

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the matter of

**Betty's Communications Companies, Inc. )  
2820 Lewis Speedway )  
St. Augustine, Florida 32084 )**

NAL/Acct No. X3270001  
Case No. 99TP114

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: January 4, 2000**

**Released: January 4, 2000**

By the Enforcement Bureau: Tampa District Office

**I. INTRODUCTION**

1. This is a Notice of Apparent Liability for monetary forfeiture issued pursuant to Section 503(b) of the Communications Act of 1934, as amended, (the Act) 47 U.S.C. § 503(b), and Section 1.80 of the rules, 47 C.F.R. § 1.80, to Betty's Communications Companies, Inc., licensee of AM Broadcast Station WKLN, for willful and repeated violation of the Terms of Station Authorization for operating at night without authorization and Section 73.1560(a)(1), of the Rules 47 C.F.R. § 73.560(a)(1) for using a power level in excess of its authorized power.
2. The appropriate amount of forfeiture for this violation is determined to be \$2,000.00.

**II. BACKGROUND**

3. On January 15, 1999 and again on May 3, 1999, agents from the Federal Communications Commission's (Commission) Enforcement Bureau, Tampa District Office, conducted field strength measurements and monitored broadcast times of radio station WKLN, 1170 kHz, St. Augustine, Florida. On May 4, 1999, agents inspected radio station WKLN. The monitoring and inspection revealed several violations of the Commission's Rules, including violations of 47 C.F.R. Sections 73.99(d)(1), 73.99(e), 73.1560(a)(1), 73.1350(c)(1), 73.1840(a), and 11.61(a)(1)(i) and (2)(ii)(A). On June 3, 1999, an Official Notice of Violation, (NOV), was issued to Betty's Communications Companies, Inc., by the Tampa District Office<sup>1</sup>.
4. On June 18, 1999, the Tampa District Office received a written response to the NOV from Mr. Harold Osborne, General Manager of radio station WKLN, St. Augustine, Florida. In his reply to the NOV, Mr. Osborne did not refute the findings of a power level in excess of the station's authorized operating power. Mr. Osborne offered an explanation but could not provide any documentation to support his explanation. On September 22, 1999, a Continuation of Official Notice of Violation was issued to Betty's Communications Companies, Inc. asking for specific documentation to support his explanation of the violation. In this response, Mr. Osborne was still unable to support his explanation with documentation.

**III. DISCUSSION**

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<sup>1</sup> The notice included violations of Section 73.99(d)(1) and Section 73.99(e) of the Commission's rules concerning PSRA or PSSA operation. However, subsequent to the issuance of that notice, a review of Commission records indicates that WKLN was not authorized any PSRA or PSSA authorization for the period January 15, 1999, to May 4, 1999.

5. Betty's Communications Companies, Inc. operated from 5:45 PM EST until 9:00 PM EST on January 15, 1999, and from 8:15 PM EDT until 11:05 PM EDT on May 3, 1999, without any authorization to operate during these times issued by the Commission. Betty's Communications Companies, Inc. operated with a power in excess of that which is authorized on May 3, 1999, and again on May 4<sup>th</sup>, 1999. The calculated power on those two days was 955 watts or 115% of that which is authorized.
6. The response to the NOV and the Continuation NOV present no substantive evidence to refute the findings of the Commission agents during their station monitoring and field strength measurements conducted on January 15, 1999 and May 3, 1999, or their inspection of WKLN's operation on May 4, 1999. Betty's Communications Companies Inc., licensee of radio station WKLN, is responsible for knowledge of, and compliance with, the applicable sections of Part 73 of the Commission's rules which include hours of operation and operating power and mode tolerances.
7. The violations were willful.<sup>2</sup>
8. Pursuant to the Forfeiture Policy Statement, 12 FCC Rcd 17087 (1997) (Forfeiture Policy), the base amount for these type of violations is \$4,000.00. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in section 503(b)(2)(D) that include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require, 47 U.S.C. § 503(b)(2)(D). Applying the Policy Statement and statutory factors to the instant case, the lack of previous violations and short tenure as licensee, we believe that a monetary forfeiture in the amount of \$2,000.00 is warranted.

#### IV. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED**, pursuant to Section 503(b) of the Communications Act, 47 U.S.C. § 503(b), and Section 1.80 of the Commission's Rules, 47 C.F.R. § 1.80, that Betty's Communications Companies, Inc., **IS APPARENTLY LIABLE FOR MONETARY FORFEITURE** in the amount of **\$2,000.00** for violating the Terms of Station Authorization and Section 73.1560(a)(1) of the Rules, 47 C.F.R. § 73.560(a)(1) for using a power level in excess of its authorized power. The amount specified was determined after consideration of the factors set forth in **Section 503(b)(2)(D) of the Act, 47 U.S.C. § 503(b)(2)(D) and the guidelines enumerated in the Forfeiture Policy Statement.**
10. **IT IS FURTHER ORDERED**, pursuant to Sections 1.80(f)(3) and (h) of the Commission's Rules, 47 C.F.R. § 1.80(f)(3) and (h), that Betty's Communications Companies Inc., within thirty (30) days of the date of release of this Notice, must pay the monetary forfeiture amount of \$2,000.00 or file a written response showing why the forfeiture should be reduced or not imposed. Any written response must include a detailed factual statement and supporting documentation.<sup>3</sup> Forfeitures shall be paid by check, money order, or credit card, with the appropriate documentation, made payable to the Federal Communications Commission.<sup>4</sup> The remittance should be marked NAL/Acct No: X3270001 and mailed to the following address:

Federal Communications Commission

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<sup>2</sup> Section 312(f)(1), which also applies to Section 503(b), provides: [the term "willful," when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act or by treaty ratified by the United States. See Southern California Broadcasting Co., 6 FCC Rcd 4387(1991).

<sup>3</sup> Claims of inability to pay should be supported by tax returns or other financial statements prepared under generally accepted accounting procedures for the most recent three-year period.

<sup>4</sup> Requests for payment under installment plans should be mailed to: Chief, Billings and Collections, Mail Stop 1A820, 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554. Payment of the forfeiture in installments may be considered as a separate matter in accordance with Section 1.1914 of the Commission's Rules. Contact Chief, Billings and Collections at (202) 418-1995 for more information on payments by credit card.

P.O. Box 73482  
Chicago, IL 60673-7482

Send or mail any written responses regarding the reasons why the forfeiture should be reduced or not imposed to:<sup>5</sup>

Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554  
ATTN: Enforcement Bureau  
Mail Stop 1500E3-DLH  
NAL/Acct. No. X3270001

Any written response should focus on the mitigating factors outlined in the Policy Statement and Section 503 of the Act.

11. **IT IS FURTHER ORDERED THAT** this notice be sent, by certified mail, return receipt requested, to **Betty's Communications Companies, Inc., 2820 Lewis Speedway, St. Augustine, Florida 32084.**

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow  
District Director  
Tampa District Office

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<sup>5</sup> For example, you must support your claim that you qualify as a small business and may therefore be eligible for a potential reduction in the amount of this forfeiture pursuant to the Small Business Regulatory Enforcement Fairness Act, Pub L. 104-121, 110 Stat. 858 (1996). If you have any questions on this subject, please contact the Commission's Office of Communications Business Opportunities at (202) 418-0990.